

EXHIBIT 15

Questions Over Felder's 'Yeshiva' Amendment

Critics say state senator's move lowers the bar for secular education.

By [AMY SARA CLARK](#) ✓

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For many chasidic students in Williamsburg, boys study 10 hours a day, but never get past third-grade-level in English and math. Photos by Michael Dattkesh/JW.

Using his leverage as the swing vote in the divided State Senate, Sen. Simcha Felder appears to have strong-armed a provision into the budget that significantly changes state oversight of yeshiva curricula, political observers say.

The black-hat-Brooklyn-based senator — a Democrat who generally caucuses with the Republicans, giving them the majority — made the demand on Friday, as lawmakers were trying to pass the budget before the April 1 deadline, and, ideally, before the Passover/Easter holiday weekend began.

Thus, despite vocal disapproval by some lawmakers, both houses ultimately adopted the provision, allowing the \$168 billion budget to pass early Saturday morning.

The [measure](#)* appears to be written specifically to lower the bar on curriculum requirements for chasidic yeshivas. The issue of secular education for yeshiva students, which [critics charge is substandard](#), prompted New York City's department of education to [launch an investigation](#) in 2015; the results have yet to be released.

Currently, many chasidic boys' yeshivas only teach secular studies for 90 minutes a day, four days a week, with secular education stopping altogether in high school, according to Young Advocates For Fair Education, or Yaffed, an advocacy group that pushes for better secular education in chasidic yeshivas. (Chasidic girls, who aren't taught Talmud, get better secular educations.)

Naftuli Moster, Yaffed's founder and executive director, decried the new provision a step backwards. "I definitely think this is a setback," he said. "At the very least it confuses things."

Reached Monday, Felder declined to discuss the provision.

The provision changed the wording of New York State's law regarding nonpublic schools. The passage originally said that such instruction "shall be at least substantially equivalent to the instruction given to minors of like age and attainments" and must include in grades 1-8 "instruction in at least the 12 common school branches of arithmetic, reading, spelling, writing, the English language, geography, United States history, civics, hygiene, physical training, the history of New York State and science."

In high school, the old provision said, students must take English, civics, hygiene, physical education and American history.



State Senator Simcha Felder refused to vote for the state budget unless his yeshiva oversight amendment was included. via nysenate.gov

The changes appear to be written to only apply to yeshivas, since the language specifies that it applies only to nonprofit schools that have a bilingual program and a school day that ends no earlier than 4 p.m. for the early grades and 6 p.m. for high schoolers.

For these particular schools, the state should, when determining whether a school is providing a "substantially equivalent" education, "shall consider," but is "not limited to," looking at whether "the curriculum provides academically rigorous instruction that develops critical thinking skills in the school's students, *taking into account the entirety of the curriculum* [emphasis added]." It spells out specifics, such as that students need to be able to write an essay; be fluent in "mathematical functions and operations"; be able to "interpret and analyze primary texts to identify and explore important events in history" and to use the information "to construct written arguments." They must also "demonstrate an understating [sic] of the role of geography and economics in the actions of world civilizations" and, regarding science, be able to "gather, analyze and interpret observable data to make informed decisions, ... [use] deductive and inductive reasoning to support a hypothesis, and [understand] how to differentiate between correlational and causal relationships."



Chasidic preschoolers in Borough Park. Michael Datikesh/JW

Critics point out that even though these requirements are far more rigorous than what many chasidic yeshivas currently teach, according to Yaffed, the bar the provision sets is still much lower than the Common Core

requirements in public schools. They also note that the requirements to study American history and civics have been removed.

Marci Hamilton, a University of Pennsylvania law professor specializing in Church-state issues and founder of CHILD USA, which aims to prevent child abuse, called the change “a fig leaf” for yeshivas to hide behind while continuing to keep the same scant secular studies curriculum.

“What it requires is the minimum level of proficiency,” she said, noting that there’s no mention of students having to work at grade level. Plus, she said, there still isn’t a clear enforcement mechanism: “All they have to do is bring these kinds of textbooks into the school and pretend they’re using them.”

For high schools, the change is starker. There is no mention of the need for secular instruction. Rather, the statute now says that the education department shall consider whether the schools provide “academically rigorous instruction that develops critical thinking skills in the school’s students, the outcomes of which, *taking into account the entirety of the curriculum* [emphasis added], result in a sound basic education.”

The final change in the statute specifies that the Department of Education commissioner will enforce the rules. The enforcement mechanism was not spelled out in the previous version, but the predominant interpretation had been that local government would enforce curriculum standards, as they do for public schools.

Columbia University law and education Professor Michael Rebell noted that the inclusion of the words “sound basic education,” which, based on past education case law, appear to make the requirements tougher. The phrase, found in Article 11 of the New York State Constitution, has been defined as being capable of voting and serving on a jury, which one judge deemed means a citizen must understand complex concepts — such as how DNA works — in order to be a fair juror.

Plus, he added, while before it was ambiguous who was required to enforce the law, now the duty is squarely in the lap of the state commissioner of education.

David C. Bloomfield, professor of education leadership, law and policy at Brooklyn College and The CUNY Graduate Center, noted that the narrow wording of the statute could be struck down in court.

“Is this language so narrow that it advances only religious schools?” he said. “If so, that is illegal.”

Via email, he called the measure “a likely unconstitutional back-room political deal allowing religious schools exemptions from state curriculum requirements. ... [I]t appears that these schools, which receive millions of dollars in taxpayer subsidies, may now permissibly deny students adequate knowledge of ... secular subjects needed to succeed in the modern world, thus preventing them from any reasonable chance of exercising self-determination, a fundamental human right.”

Norman Siegel, a civil rights attorney who has worked pro bono with Yaffed, said, “They now have a change where the oversight of yeshivas and other types of schools that have a subject matter that is taught intensively overrides whatever else is going on in the school. That is extremely troubling.”

Three umbrella organizations representing black hat and chasidic yeshivas — Agudath Israel of America, Parents for Education and Religious Liberty in Schools (Pearls) and United Jewish Communities — either did not respond to requests for comment or declined.

However, several Orthodox politicians praised Felder’s amendment.

Borough Park Assemblyman Dov Hikind, praised Felder in a written statement “for fighting for what we believe is protecting our institutions where education is the foundation of our community.”

Aron Weider, a Rockland County Legislator who represents the heavily chasidic town of Spring Valley, tweeted, in part, that: “The entire private school community from every religious persuasion, will forever remember

@NYSenatorFelder for protecting their freedoms. This was a profiles in courage moment. The American ideals and values won the day.”

However, others reacted differently. Rockland County Assemblyman Ken Zebrowski, tweeted Friday: “Just to be clear: the budget is being held up by the Senate over whether or not the State Education Department should be stripped of the ability to ensure kids in private schools get an appropriate education. Is this really debateable?”

***The yeshiva amendment can be found under section SSS.**

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